



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/473,649	12/28/1999	AMY MULDERRY	07019.0004	1261

22852 7590 12/06/2002

FINNEGAN, HENDERSON, FARABOW, GARRETT &  
DUNNER LLP  
1300 I STREET, NW  
WASHINGTON, DC 20006

EXAMINER

O'CONNOR, GERALD J

ART UNIT	PAPER NUMBER
----------	--------------

3627

DATE MAILED: 12/06/2002

14

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
**09/473,649**

Applicant(s)  
**Mulderry et al.**

Examiner  
**O'Connor**

Art Unit  
**3627**



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on April 30, 2002 (Paper No. 8 - Request for Reconsideration).
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above, claim(s) 10-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on December 28, 1999 is/are a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

Art Unit: 3627

## **DETAILED ACTION**

### ***Preliminary Remarks***

1. This Office action has been prepared in response to the arguments filed by applicant on April 30, 2002 (Paper N<sup>o</sup> 8), in response to the Office action mailed Jan. 30, 2002 (Paper N<sup>o</sup> 7).

### ***Election/Restriction***

2. This application contains withdrawn claims 10-31, drawn to an invention nonelected with traverse in Paper N<sup>o</sup> 6. A complete reply to this final rejection must include cancellation of the nonelected claims or other appropriate action (37 CFR 1.144). See MPEP § 821.01.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-9 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by Walker et al.

Art Unit: 3627

***Response to Arguments***

5. Applicant's arguments filed Apr. 30, 2002 have been fully considered but are not persuasive.

6. Regarding the argument that the system of Walker et al. does not transmit multiple offers from multiple merchants to a single customer, the system of Walker et al. indeed transmits multiple offers from multiple merchants to a single customer. The database 342 of the first merchant computer 122 in the system of Walker et al. "contains data pertaining to the periodicals to which subscriptions are available" (column 7, lines 45-46). This database 342 "contains a listing of information relating to periodicals to which customer 110 may obtain a subscription" (column 8, lines 37-38). Additionally, "the listing of periodicals may contain different records relating to the same periodical, each record having a different subscription term and price" (column 8, lines 44-47). Therefore, as each magazine publisher selling a particular periodical is considered a different "merchant," and as the various subscription terms and prices for each periodical comprise multiple "offers" from each particular merchant, Walker et al. indeed disclose offering to a customer "multiple offers from multiple merchants."

7. Regarding the argument that the system of Walker et al. does not transmit customer inputted information from a first merchant to a second merchant, the system of Walker et al. indeed transmits customer inputted information from a first merchant 130 to a second merchant 140. See, in particular, Figure 14, and the detailed description thereof (column 14, line 54 et seq.).

Art Unit: 3627

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to the disclosure.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

10. Any inquiry concerning this communication, or earlier communications, should be directed to the examiner, Jerry O'Connor, whose telephone number is (703) 305-1525, and whose facsimile number is (703) 746-3976.

GJOC

December 3, 2002



ROBERT P. OLSZEWSKI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600